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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

11 ANTOLIN ANDREW MARKS,

12 Plaintiff,

13 v.

14 COOK SINGH, et al.,

15 Defendants.
16

Case No. C07-5666RJB

ORDER ADOPTING REPORT
AND RECOMMENDATION

17 This matter comes before the Court on the Report and Recommendation of U. S. Magistrate Judge
18 J. Kelley Arnold. Dkt. 18. The Court has considered the Report and Recommendation, objections to the
19 Report and Recommendation, and the record.

20 **I. FACTS**

21 Plaintiff filed this action on October 30, 2007 in Pierce County, Washington Superior Court. Dkt.
22 1. Defendants removed the case to this Court on November 29, 2007. *Id.* Plaintiff is incarcerated at the
23 Northwest Detention Center (“NDC”) and is going through the process of being deported. *Id.* Plaintiff
24 named employees of GEO, a contractor at the NDC, and federal employees as defendants. *Id.* The GEO
25 defendants were dismissed by stipulation on January 10, 2008. Dkt. 9. The remaining defendants are
26 federal employees.

27 The Report and Recommendation reviews the facts leading up to this case, and those facts shall not
28 be repeated here. Dkt. 18. The Report and Recommendation recommends that this action be summarily

1 dismissed as frivolous and malicious. *Id.* The Report and Recommendation states that Plaintiff's claims in
2 this action are the same claims he has litigated in several other cases. *Id.* The Report and
3 Recommendation leaves open the question of whether Plaintiff should be sanctioned for his Response to
4 the Motion to Dismiss. *Id.*

5 Plaintiff filed Objections to the Report and Recommendation. Dkt. 19. He repeats the arguments
6 he raised in his Response to the Motion to Dismiss (Dkt. 16). *Id.* In both pleadings, Plaintiff argues that
7 the Magistrate Judge is "angry" with him and has given him "a raw deal" in this and the other cases he has
8 before the Court. Dkts. 19 and 16 respectively. Plaintiff alleges that the Magistrate Judge "has tended to
9 favor the nonsense that is put forth by the Defendants." Dkt. 16, at 1. Plaintiff then again raises arguments
10 that he has litigated in the past as stated in the Report and Recommendation. Dkts. 16 and 19.

11 The Report and Recommendation (Dkt. 18) should be adopted. Pursuant to 28 U.S.C. §
12 1915(e)(2)(b)(i) the court shall dismiss a case proceeding *in forma pauperis*, notwithstanding any filing
13 fee, or any portion thereof, that may have been paid, at any time if the court determines that the action is
14 frivolous or malicious. As stated in the Report and Recommendation, this action is frivolous and
15 malicious, and should be dismissed with prejudice. No further sanction is necessary.

16 Accordingly, it is hereby **ORDERED**:

- 17 • The Report and Recommendation (Dkt. 18) is **ADOPTED**;
18 • This case is **DISMISSED**. No further sanctions are necessary; and
19 • The Clerk is directed to send copies of this Order to Plaintiff, all counsel of record, and to the Hon.
20 J. Kelley Arnold.

21 DATED this 4th day of November, 2008.

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24 ROBERT J. BRYAN
25 United States District Judge
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